

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

JOSHUA PARKS,

Plaintiff,

VS.

CIVIL ACTION NO. 1:19-CV-00222

NORDEX USA, INC., ACCIONA ENERGY S

USA GLOBAL LLC, BRUENNING'S

BREEZE WIND FARM, LLC IEA

CONSTRUCTORS, LLC, E.ON CLIMATE §

& RENEWABLES NORTH AMERICA,

LLC, 3M and CAPITAL SAFETY, LLC §

AND AXIS RENEWABLE GROUP, INC., §

Defendants.

JOINT DISCOVERY / CASE MANAGEMENT PLAN
UNDER FEDERAL RULE OF CIVIL PROCEDURE 26(f)

1. State where and when the conference of the parties required by Federal Rule of Civil Procedure 26(f) was held and identify the counsel who participated for each party.

Conference was held on February 19, 2020 at 2:30 pm to include the following participants:

Javier Herrera

Laura G. Tamez, Counsel for Plaintiff;

Christopher Lowrance, Counsel for Defendant, Nordex USA, Inc.;

**Louis W. Williams, Counsel for Defendants Bruenning's Breeze Wind Farm, LLC
And RWE Renewables Americas, LLC F/K/A E.On Climate & Renewables North
America, LLC;**

Bryan D. Nichols, Counsel for Defendant, IEA Constructors, LLC;

David G. Oliveira

Deborah E. Lewis Counsel for Defendants 3M Company & Capital Safety, LLC;and

Susan Sullivan Counsel for Defendants Axis Renewable Group, Inc. & Campo Lejano Axis Grupo, Inc.

2. List the cases related to this one that are pending in any state or federal court with the case number and court

None.

3. Specify the allegation of federal jurisdiction.

Diversity of citizenship.

4. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

**The following Defendants were sued by Plaintiffs. They have not filed an answer.
First National Capital, LLC;
Acciona Windpower North America, LLC; and
World Wind & Solar**

5. List anticipated interventions, if any.

None.

6. Describe class-action issues, if any.

None.

7. State whether each party represents that it has made the initial disclosures by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

The parties will make their initial disclosures by March 11, 2020.

8. Describe the proposed agreed discovery plan, including:

- A. Responses to all the matters raised in Federal Rule of Civil Procedure 26(f).

October 27, 2020

- B. When and to whom the plaintiff anticipates it may send interrogatories/requests for production.

Plaintiff anticipates propounding interrogatories/request for production to all Defendants within 10 days after receipt of Defendant's initial disclosures.

- C. When and to whom the defendant anticipates it may send interrogatories/requests for production.

Defendants anticipates propounding interrogatories/request for production upon Plaintiff within 30 days after receipt of Plaintiff's initial disclosures.

- D. Of whom and by when the plaintiff anticipates taking oral depositions.

Plaintiff anticipates taking the depositions of the corporate representative of the Defendants, any employees present at the time of the incident, any eyewitnesses to the incident, plaintiff's treating physicians as well as any expert witnesses designated by Defendant. Plaintiff reserves the right to depose other fact and expert witnesses as they are discovered. Plaintiff anticipates taking these within the completion of discovery.

- E. Of whom and by when the defendant anticipates taking oral depositions.

Defendants anticipate taking the depositions of the Plaintiff, any employees present at the time of the incident, any eyewitnesses to the incident, plaintiff's treating physicians as well as any expert witnesses designated by Plaintiff. Defendants reserve the right to depose other fact and expert witnesses as they are discovered. Defendants anticipate taking these depositions within the completion of discovery.

- F. When the plaintiff (or the party with the burden of proof of an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.

Plaintiff will be able to designate experts and provide the reports required by Rule 26(a)(2)(B) by August 21, 2020 or TBD.

Defendants will be able to designate experts and provide the reports required by Rule 26(a)(2)(B) by October 23, 2020 or TBD.

- G. List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report)

Plaintiff anticipates taking the deposition of any expert witness designated by Defendant within 30 days after their designation.

- H. List expert depositions the opposing party anticipates taking and their anticipated completion date. See Rule 26(a)(2)(B) (expert report)

Defendants anticipates taking the deposition of any expert witness designated by Plaintiff within 30 days after their designation.

9. If the parties are not agreed on a part of the discovery plan, describe each party's separate views and proposals.

With several outstanding Defendants remaining to answer; the discovery and depositions may be delayed as well as the number of witnesses to be deposed may delay the ability to designate experts as scheduled.

10. Specify the discovery beyond initial disclosures that has been undertaken to date.

None.

11. Specify any modifications to the Preliminary Scheduling Order that one or more parties' requests.

There are Defendants who have not filed an answer, with the number of Parties in this case, the outstanding Parties need written discovery first, expert witnesses' deadlines of May 26, 2020 and July 21, 2020 are not realistic.

The parties have discussed alternate dates for expert designations and are in agreement that Plaintiff's deadline should be August 21, 2020 and Defendants deadline should be October 23, 2020.

12. Describe what each party has done or agreed to do to bring about a prompt resolution.

After a preliminary discussion about the case, the Parties are receptive to mediation at the close of discovery.

13. State the Alternative Dispute Resolution techniques that are reasonably suitable and state when such a technique may be effectively used in this case.

After a preliminary discussion about the case, the Parties are receptive to mediation at the close of discovery.

14. Magistrate judges may not hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.

The parties do not consent to a trial before a magistrate judge.

15. State whether a jury demand has been made and if it was made on time.

A timely jury demand has been made.

16. Specify the number of hours presenting the evidence in this case will take.

112 hours.

17. List pending motions that could be ruled on at the Initial Pretrial Conference
1. **Defendant Nordex USA, Inc.'s Motion to Dismiss for Failure to State a Claim and, Subject Thereto, Original Answer (Entered: 12/13/2019, Doc. 4);**
 2. **Defendants, Bruenning's Breeze Wind Farm, LLC and RWE Renewables Americas, LLC's, Original Answer to Plaintiff's Complaint. Defendant also joined in, adopted, and incorporated by reference the arguments and authorities in Nordex USA, Inc.'s ("Nordex") Motion to Dismiss for Failure to State a Claim (Entered: 01/03/2020, Doc. 15);**
 3. **Plaintiff's Supplemental Response to Defendant Nordex USA, Inc.'s Rule 12(B)(6) Motion to Dismiss for Failure to State A Claim, and In the Alternative, Plaintiff's Opposed Motion for Leave to File Plaintiff's First Amended Complaint Subject to Plaintiff's Motion for Remand**
 4. **Plaintiff's Opposed Motion for Leave to File Plaintiff's Second Amended Complaint Subject to Plaintiff's Motion for Remand and In Response to Defendant Bruenning's Breeze Wind Farm, LLC and RWE Renewables Americas, LLC's Original Answer to Plaintiff's Complaint (Entered: 01/24/2020).**
18. List other motions pending.
- None at this time.**
19. Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the Court at the Initial Pretrial Conference, and/or that could facilitate a prompt, efficient, and cost-effective preparation of the case.
- None.**
20. List the names, bar numbers, addresses, and telephone numbers of all counsel.

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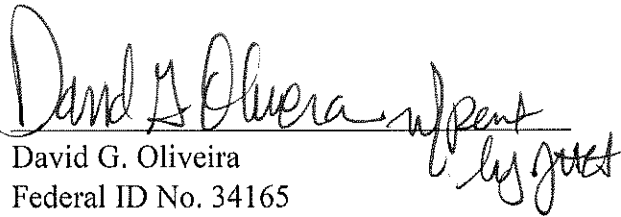
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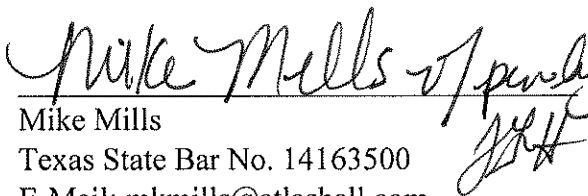
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A handwritten signature in black ink, appearing to read "Christopher Lowrance", is written over a horizontal line. To the right of the signature, there is a smaller, more stylized handwritten mark.

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